

ELECTRONIC COMMERCE AND U.S. TRADE POLICY

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Chairman Smith, Senator Biden, thank you very much for inviting us to testify this morning on initiatives at the World Trade Organization regarding electronic commerce.

It is especially appropriate that the Subcommittee on Europe is holding this hearing, as at least for the present we and the European Union are the most intense users of the Internet and electronic commerce. Our ability to reach consensus on the trade policy aspects of electronic commerce is key to ensure that these new technologies achieve their full benefits for Americans, Europeans and the world. In my testimony today, I will outline the trade policy initiatives we have begun, with particular reference to our work at the World Trade Organization, to ensure that this new method of trade brings its full potential benefits to Americans.

DEVELOPMENT OF ELECTRONIC COMMERCE

The United States is well-positioned to benefit from the rapid growth of global electronic commerce – that is, the use of the Internet and other forms of electronic transmissions to buy and sell – as we are the world's leading supplier of all Internet-related goods and services. While electronic commerce, and the broader commercial development of information technologies, telecommunications and the Internet, are in their infancy, some of their implications are already becoming clear.

Generally speaking, global electronic commerce will improve efficiency, allow firms to cut inventories, provide better and more timely customer service, and help keep U.S. inflation at current low levels. These benefits are especially evident in international trade. The Internet will help suppliers and buyers find one another more rapidly, reduce the complexity of finding and filling out paperwork, and erase borders completely for products available in digital form. Especially interesting and exciting is the potential of electronic commerce to spur entrepreneurialism in disadvantaged areas, as the Internet allows small businesses, and individuals in poor countries or remote areas, to enter markets at low cost.

Today, over \$90 billion (an estimated 85% of electronic commerce) takes place within or among businesses. The retail share of e-commerce – now \$7-\$15 billion dollars in annual sales – is poised to expand rapidly, as possibilities for consumer transactions over the Internet capture our national imagination and that of people around the world. As a result, we forecast that by 2006, almost half the U.S. workforce will be employed by industries that are either major producers or intensive

users of information technology products and services. Already, an estimated 1.2 million U.S. jobs are directly related to the Internet.

For consumers, the benefits are equally clear. Electronic commerce will offer new power to compare price and quality among vendors all over the world. And it will make buying more convenient, as consumers use computers to order products from downloaded music and film to home appliances delivered directly to the home from any domestic or international source.

Our goal is to ensure that we take full advantage of these benefits for producers and consumers, but also to address aspects of electronic commerce such as security, privacy and consumer protection related to practices by private parties. Most of the latter issues are the responsibility of our colleagues in the Department of Commerce, Federal Trade Commission, and law enforcement, and I will therefore not address them in depth in this testimony. However, I will note that our Administration is well aware that together with rising living standards and better prices come questions about Internet scam artists, abuse of credit cards, collection of personal data about purchases, visits to Web sites and other privacy issues. These are critically important issues, which we are addressing in cooperation with law enforcement, business and consumer organizations in the U.S. and worldwide.

THE TRADE POLICY CHALLENGE

Our trade policy with respect to electronic commerce begins with some basic principles: consumers should get the maximum benefits of new technologies; our companies, our national economy, and our trade partners should be able to use them to the best effect; and we should maintain high standards of public safety, privacy and consumer protection that help define ~~the~~ our quality of life. Our trading partners in the European Union, of course, face precisely the same challenge of maximizing benefits while maintaining high standards.

These goals are consistent with our general trade policy, but electronic commerce raises some novel questions. For fifty years the United States has followed a policy of opening markets and reducing trade barriers, which generally, although not always, appear at national borders. The trade policy questions raised by the Internet, however, demand a policy that is in many ways the opposite of this approach: cyberspace is a world with no natural borders, and as yet no obvious trade barriers either.

This is a complex challenge, made more so by the rapid growth of the Internet and electronic commerce. The Internet, with three million users in 1995, now has 140 million worldwide, with 52,000 new Americans logging on each day; by 2005 it may reach a billion people around the world. Electronic commerce, totaling about \$100 billion last year, may reach \$1.3 trillion in the United States alone by 2003 -- and many other countries are expanding just as quickly, with e-commerce in Thailand likely to quintuple this year, and e-commerce in India set to grow by perhaps \$15 billion within two years.

In some individual industries, the possibilities are even greater; electronic commerce is likely not only to improve productivity and pricing but to transform a number of fields. In some fields -- notably industries like software, entertainment, health and education -- electronic commerce opens up the possibility of instantaneous delivery of services anywhere in the world, bypassing ports, customs and transport. And new products and services develop every moment.

U.S. PRINCIPLES

However, despite the rapid pace of change in technology, the policy framework is not new. Electronic commerce and the Internet are technological innovations -- but also logical developments of earlier innovations in communications and information technology, dating to telegraphs and telephones 100 years ago and more. So while we must adapt our thinking and policies in certain important ways, our traditional principles remain valid.

We have generally believed that government policies should be in the form of self-regulation where possible, rather than attempts to control the development of industries and technologies. Where this does not succeed, of course, the government has an obligation to protect citizens, especially those most vulnerable, through impartial means. And in either case, we have maintained an open and non-discriminatory market, believing that trade generally creates positive competitive pressures and raises living standards.

These principles, we believe, will be valid in electronic commerce as well:

- It will be difficult to predict precisely how an electronic marketplace will develop, and which goods, services and technologies will be most successful. So we do not propose to try; rather, we will wherever possible leave this to the private sector and the market.
- Further, while action to fight crime, protect children, protect consumers from fraud and deception, and protect privacy in electronic commerce and the Internet will be necessary, evaluating the need for it will be a very complex task. Unless the decisions we ultimately make rest on a strong consensus among the private sector and consumers as well as government, the most likely result will be a set of regulations that are both burdensome for businesses and consumers, and ineffective in their primary objective.
- And finally, as there are no natural borders to cyberspace, the development of policies and solutions must, as much as possible, be a worldwide effort.

In trade policy, we are developing international consensus on these principles through specific objectives at the WTO, and through advisory committees in our regional and bilateral trade initiatives. This process is well-developed in our relationship with the European Union. Our principal bilateral trade initiative, the Transatlantic Economic Partnership, has made electronic commerce one of seven

principle focuses of bilateral discussion. Under the TEP's Services and Electronic commerce working group, the U.S. and EU have done an inventory of policy issues for global electronic commerce to address bilaterally. The U.S. has proposed focusing the initial work on guaranteeing access to adequate bandwidth for global electronic commerce service providers.

The private sector and consumer discussion groups -- the Transatlantic Business Dialogue (TABD), the Global Business Dialogue on Electronic Commerce, our Advisory Commission on Trade Policy and Negotiations (ACTPN) and Transatlantic Consumer Dialogue (TACD) -- likewise have made a priority of the issues associated with electronic commerce.

In trade policy, our goals have focused on unimpeded development of electronic commerce. In other areas, our colleagues in the appropriate agencies have focused on encouraging the private sector to take the lead in developing self-regulatory action to address issues such as consumer protection and privacy; and where criminal conduct is a risk, to ensure that traditional tools for protecting citizens are available to regulators and law enforcement.

UNIMPEDED DEVELOPMENT OF ELECTRONIC COMMERCE

First, unimpeded development of electronic commerce. Here we have several specific objectives in our work at the WTO. Our overarching mission is to ensure that the WTO promotes the most trade-liberalizing approach to electronic commerce, thereby reducing the cost of goods to consumers, improving the efficiency of our economies, and speeding trade-related growth in developing regions. In this regard, we have several near-term goals:

- a) obtaining an extension of the current moratorium on the imposition of customs duties on electronic transmissions, with a view to making this commitment permanent at the earliest possible date;
- b) affirming among WTO Members that existing agreements (GATT, GATS, TRIPs, etc.) apply to electronic commerce in a technology neutral fashion and that WTO Members will refrain from taking measures that could inhibit the growth of electronic commerce;
- c) highlighting that existing WTO commitments apply to the delivery of a service using the Internet; and
- d) continuing to address issues raised by electronic commerce and its relationship to trade disciplines, to ensure that ongoing negotiations provide the most trade-liberalizing approach possible for electronic commerce.

1. Duty-Free Cyberspace

Most immediate is our initiative to keep cyber-space duty-free -- that is, to prevent the imposition of tariffs on electronic transmissions. Imposition of customs duties for electronic transmissions would not only be a burden on the development of this technology but would also be exceedingly difficult to enforce. It would both slow the growth of electronic commerce, and encourage that growth to take place outside the law.

Today, fortunately, no member of the WTO considers electronic transmissions as imports subject to duties for customs purposes. There are no customs duties on cross-border telephone calls, fax messages or computer data links, and this duty-free treatment should include the Internet. We have thus spent a great deal of energy in preventing their emergence, and so far with success.

The benefits of duty-free cyberspace are enormous. Not only are international data flows transmitted electronically growing exponentially, but the value of the content embedded in that data is growing as well. The \$200 billion software industry is just one example: while most people now buy software through a physical media, there is no reason we should not be able to buy and export software electronically. Ensuring duty-free status for such products would be of great value to U.S. firms, and would bring benefits to consumers around the world.

Duty-free cyberspace also allows us to avoid the huge costs associated with imposing customs duties on electronic transmissions. Apart from the direct financial burden on the transmission itself, there is a cost of instituting a mechanism to collect such duties and the administrative cost complying with an approach. For a delivery mechanism based on an open network, where borders are meaningless, imposing customs duties "at the border" would be crushing burden. Is it really feasible to route all data traffic through a single "gateway", where customs officials would be tasked to assess duties? Could customs officials identify the value of data and assess duties accordingly? Doing so would establish a practice which would have a chilling effect on trade. Needless to say, many companies would shun doing business with countries that imposed such requirements.

In May of 1998, we secured a temporary "standstill" on application of tariffs in this area at the WTO last year. We are working toward consensus on an extension of it as the WTO Ministerial Conference approaches, and have made significant progress. The European Union has also placed duty-free cyberspace among its electronic policy objectives; the APEC Trade Ministerial in New Zealand last month committed all 21 APEC members, including most Asian economies, Mexico, and Chile, to the goal; and we are building consensus on this issue through our regional initiatives in Africa and the Western Hemisphere as well.

2. Digital Products

Second, we believe the emerging consensus resulting from the WTO work-program on electronic commerce is that electronic commerce is subject to the existing rules we have developed at the WTO -- it is not a *sui generis* form of trade outside the scope of the existing WTO framework.

WTO rules require members, in general, not to impose unnecessary regulatory barriers to trade. We consider that electronic commerce, as an opportunity for bolstering economic growth around the world, ought to benefit from the most trade-liberalizing approach, with respect to interpretation of the existing WTO rules and also when Members adjust domestic law and regulation to meet the new challenge it creates.

We believe more time and work are necessary, however, before we settle on final classification under WTO rules of all products delivered over the Internet. The WTO agreements on industrial goods (the General Agreement on Tariffs and Trade) and services (the General Agreement on Trade in Services) cover their respective subjects in substantially different ways – notably, in the GATS, members at present provide market access only in sectors where they have made specific commitments. Given the very rapid change and development of electronic commerce, we believe classification of certain digital products delivered over the Internet is premature.

3. Technological Neutrality

Third, through the longer-term WTO work program we are promoting understanding of the broader principle of “technological neutrality,” to ensure that products delivered electronically are treated the same and enjoy benefits of the trade principles of the WTO. Again, the European Union shares our understanding of existing WTO rules.

New technologies and telecommunications services make possible a vast range of new activities. We can predict neither the new activities of the next decade, nor the methods which will deliver them most cheaply and easily. We can, however, assume that with freedom to develop new ideas and technologies, we will find better and easier ways to conduct business all the time. Technology neutrality, in the trade perspective, means that WTO rules assure that firms and consumers enjoy the benefits of newer or cheaper goods and services delivered electronically.

4. Intellectual Property Rights

Fourth, protection of intellectual property rights is essential if electronic commerce is to reach its full potential. This raises a special challenge, as some music, film, and other copyright products are available over the Internet as easily as through stores, cinemas or video rental shops. And this in turn also raises at least the possibility of an explosion in on-line piracy. Our vehicles for preventing this from occurring include the obligations of the WTO TRIPS Agreement, as well as the protections contained in the World Intellectual Property Organization (WIPO) Copyright Treaties, addressing enhanced copyright protection and rights for performance and phonograms in the digital environment.

5. The E-Commerce infrastructure

And finally, we are promoting adoption of trade disciplines that support widespread and

economical availability of infrastructure for electronic commerce.

E-commerce flourishes where telecommunications is cost-effective and innovative. The U.S. is now the E-commerce hub of the world because we have such an infrastructure: we have embraced competitive provision of telecom services, spawning the greatest capacity, the lowest prices, and the most innovative offerings in the world.

The WTO's Basic Telecom Agreement is helping to popularize that model throughout the rest of the world. The case for it is now more compelling than ever. Not only is competition clearly the best way to stimulate growth and consumer welfare for traditional telecom services, but it provides the platform for the exponential growth of electronic commerce. This is a virtuous circle in which low communications costs stimulate new services, which in turn stimulates more investment in the underlying infrastructure. In Europe, for example, those countries in which telecom markets are most competitive – notably the United Kingdom and the Scandinavian countries – are also the most active in electronic commerce. Supporting more competition in telecom markets globally is one of the single most important things we can do to ensure the growth of electronic commerce. This is increasingly recognized by developing countries, which recognize that they will not attract the vital investment they need without the openness and market-oriented policies which are proven to stimulate growth.

Likewise, the Information Technology Agreement (ITA) has contributed to significantly lower costs for construction of the Internet and other basic infrastructure for electronic commerce. Under the ITA, 46 countries – representing nearly 95% of the \$600 billion worldwide market for information technology products – will reduce tariffs on these products to zero, generally by the year 2000. This agreement covers the core of information technology products that comprise the Internet's hardware infrastructure, such as semiconductors and printed circuit boards, computers, most telecommunications equipment, and computer networking equipment. The U.S. is leading efforts to expand the scope of this agreement to include additional products driven by information technology, and to address non-tariff barriers.

CONSUMER PROTECTION

Together with, and fundamental to, unimpeded development of e-commerce is ensuring high standards of consumer protection. This is a fundamental American principle and a consensus policy goal.

While we do not view the WTO as the appropriate venue for development of consumer protection policy, since 1995, we have been developing an institutional infrastructure for electronic commerce to give businesses and consumers the confidence and predictability we enjoy in traditional form of commerce. The issues involved range from managing domain names, pursuing law enforcement targeted at fraud and deception, establishing a legal framework for electronic signatures, ensuring adequate privacy protection, particularly for children, and addressing the tax implications of electronic

commerce. All these issues are extremely important to the future of electronic commerce, and our colleagues in other agencies are addressing them through international talks, in our domestic agenda, and with advice from such groups as the Transatlantic Business Dialogue, the Transatlantic Consumer Dialogue, and the Global Business Dialogue on Electronic Commerce.

GLOBAL ACCESS

And this leads me to the third policy goal: everyone, here and overseas, should have access to the electronic marketplace.

One of the most profound and exciting implications of electronic commerce is its potential to speed development in poorer nations and disadvantaged regions at home. Rural areas, Indian Nations, small towns, and entrepreneurial associations in developing nations are all finding that Internet access requires little capital, helps entrepreneurs find customers and suppliers quickly, and eases technical and paperwork burdens that can slow participation in trade.

Thus, electronic commerce is ideally suited for developing countries and people with a good idea but little capital. We have used a number of major international meetings – the WTO’s Symposium on Electronic Commerce, the US-Africa Ministerial, APEC and FTAA meetings, and many bilateral initiatives – to build awareness of this fact among developing country governments, and by doing so have won broad support for our goals on duty-free cyberspace and other issues.

This policy work has been accompanied by practical capacity-building measures undertaken by our colleagues at a number of agencies, including the Agency for International Development, the Commerce Department, the State Department, and the Federal Communications Commission. Under the President’s Internet for Economic Development (IED) Initiative, which was announced in November 1998, these agencies are working to empower eleven developing countries in Africa, the Middle East and Eastern Europe to use the Internet to energize their economies, improve standards of living, and foster the free flow of ideas. Some IED countries also are participating in the US AID’s Leland Initiative, a five-year, \$15 million program that is extending Internet connectivity to more than 20 sub-Saharan African countries.

CONCLUSION

To sum up, we are working at the WTO, and in cooperation with other agencies, to ensure that electronic commerce develops unimpeded; that consumers are protected; and that we ensure the broadest domestic and international access possible to the electronic marketplace. And that in turn is a means to a broader goal: a world economy which offers people greater opportunities to become entrepreneurs, raises living standards for families, and gives the next generation more than the present.

For these countries, and for us as well, electronic commerce is in its infancy. We have the

luxury of being present at the creation of a very new phenomenon; and that gives us a great responsibility. If we act today -- cautiously and sensibly, in partnership with the European Union and other trading partners, and with a vision of what the future can bring -- in the years ahead electronic commerce can develop into an extraordinary force for consumer benefits, economic growth, and creativity.

The Seattle Ministerial is a remarkable opportunity for us to advance this work. I look forward to the Subcommittee's advice and comments, and to working closely with you to reach the objectives we share in the months ahead.

Thank you very much, Mr. Chairman and Members of the Subcommittee.

